



Press and Information

Court of Justice of the European Union  
**PRESS RELEASE No 17/16**  
Luxembourg, 24 February 2016

Order of the Court of 17 February 2016 in Case C-396/15 P  
Shoe Branding Europe BVBA v adidas AG

## **adidas may oppose the registration, as a Community mark, of parallel stripes placed on the side of sports shoes**

In 2009, Shoe Branding Europe, a Belgian company, filed an application for registration of the mark reproduced below on the left with the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) for shoes. Sports company adidas opposed registration of that mark, relying among other things on one of the marks reproduced below on the right:



*Mark sought to be registered by Shoe Branding Europe*



*Mark relied on by adidas to oppose the application from Shoe Branding Europe*

After OHIM dismissed the opposition, adidas instituted proceedings before the General Court seeking annulment of OHIM's decision. By judgment of 21 May 2015,<sup>1</sup> the General Court upheld the action brought by adidas, taking the view that OHIM had been incorrect in finding that the marks were visually dissimilar when the overall impression produced by the marks was, to a certain extent, similar given that there were elements clearly common to the two marks (parallel sloping stripes, equidistant, of the same width, contrasting with the base colour of the shoe, placed on the outside of the shoe). Not satisfied with the General Court's judgment, Shoe Branding Europe lodged an appeal before the Court of Justice.

In its order of 17 February 2016,<sup>2</sup> **the Court of Justice upholds the General Court's judgment.**

The Court notes, among other things, that the General Court did not contradict itself in finding that **OHIM had not provided a proper statement of reasons for its findings on the similarity of the signs at issue**, since the minor differences existing between them (i.e., the different length of the stripes resulting from the difference in angle) would not influence the overall impression produced by them on account of the presence of wide sloping stripes on the side of the shoe.

The Court further holds that since the General Court held that the differences between two and three stripes and in the length of the stripes were not sufficient to affect the similarities arising from the configuration of the signs at issue, it did **conduct an overall assessment and, therefore, did not err in law.**

**NOTE:** An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the

<sup>1</sup>Case [T-145/14](#) adidas v OHIM

<sup>2</sup>Orders are generally published on the website [www.curia.europa.eu](http://www.curia.europa.eu) seven days after they have been notified to the parties.

appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

**NOTE:** Under Article 181 of its Rules of Procedure, where the appeal is, in whole or in part, manifestly inadmissible or manifestly unfounded, the Court may at any time, acting on a proposal from the Judge-Rapporteur and after hearing the Advocate General, decide by reasoned order to dismiss that appeal in whole or in part.

**NOTE:** Community trade marks are valid throughout the European Union and co-exist with national trade marks. Applications for registration of a Community trade mark are sent to OHIM. Actions against its decisions may be brought before the General Court.

---

*Unofficial document for media use, not binding on the Court of Justice.*

The [full text](#) of the order is published on the CURIA website.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355